

Gerakoulis 113351

Applicant respectfully submits that, as demonstrated below, the presented claim 32, as amended, is not an invention that is *distinct from and independent of* the invention previously claimed by claim 32.

Original claim 32:

Directed to a method for code division switching at an originating terminal.

Amended claim 32:

Directed to communication between a first terminal and a base station that is coupled to a packet network

Applicant's Comment:

Details of the method clearly indicated that the terminal is an originating terminal.

Original claim 32:

Spreading a transmission signal by a PN code assigned to an intended receiving port

Amended claim 32:

...the message spread with a single orthogonal code g_1 , which is allocated to BS1 to distinguish transmissions to BS1 from transmissions to neighboring base stations

Applicant's Comment:

The language above is taken from the first clause following the preamble.

Original claim 32:

Forwarding said PN code spread transmission signals and said twice spread payload data signal to an access radio port

Amended claim 32:

sending a payload message to BS1 that contains the payload information, in a format adapted for direct application to the packet network, spread with g_1 and with ω_A

Applicant's Comment:

This relates to the last clause of original claim 32, effectively defines the "twice spread" data of the clause. In the amended claim 32, this "twice spread" data is defined by the phrase " g_1 and with ω_A ."

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Applicant is not asserting that amended claim 32 is the same invention as the unamended claim 32, for any amendment changes the defined subject matter. But applicant strongly believes that amended claim 32 is not *distinct from and independent of* the invention defined by the unamended claim 32; as demonstrated above.

Reconsideration is respectfully requested.

Applicant respectfully also requests the Examiner to keep in mind that claim 32 was rejected in the previous Office Action, so applicants are constrained to either traverse the rejection, or amend the claim – which by definition means presenting a different invention. The matter hinges, therefore, and what amendment to claim 32 the Examiner envisions as NOT defining an invention that is “distinct from and independent of” the unamended claim 32. Should the Examiner disagree with applicant’s argument and wish to maintain the assertion, a lodge a restriction requirement, the Examiner’s guidance as to what aspect of amended claim 32 makes it distinct from and independent of the unamended claim 32 would be greatly appreciated.

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Respectfully,
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